REMARKS/ARGUMENTS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 12-28 are pending in this case, Claims 12 and 19-21 having been currently amended.

In the outstanding Office Action, Claims 12-28 were rejected under 35 U.S.C. § 101; Claims 12-28 were rejected under 35 U.S.C. § 112, second paragraph; Claims 12, 14-16, 18 and 23-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over JP-2003-337930 in view of Vock et al. (U.S. Patent Publication No. 2007/0111753; hereinafter "Vock"); Claim 13 was rejected under 35 U.S.C. § 103(a) as unpatentable over JP-2003-337930 in view of DiBenedetto et al. (U.S. Patent No. 7,188,439; hereinafter "DiBenedetto"); and Claims 12-24 and 26-28 were rejected under 35 U.S.C. § 103(a) as unpatentable over DiBenedetto in view of Vock.

Applicants acknowledge with appreciation the courtesy of Examiner Dougherty in granting an interview in this case with Applicants' representative on April 29, 2009, during which time the issues in the outstanding Office Action were discussed as substantially summarized hereinafter and also on the Interview Summary Sheet. During the interview, proposed claim amendments were discussed which addressed the rejections under 35 U.S.C. § 101 and 35 U.S.C. § 112, second paragraph; and the Examiner agreed that the proposed amendments appear to overcome these rejections. Accordingly, this response contains the amendments discussed during the interview. Also, the Examiner agreed that Claim 12 appeared to distinguish over DiBenedetto in view of Vock.

In regard to the rejection of Claims 12-28 under 35 U.S.C. § 101, as discussed above, Applicants have amended Claim 12 to recite statutory subject matter. Accordingly, Applicants respectfully submit that the rejection has been overcome.

In regard to the rejection of Claims 12-28 under 35 U.S.C. § 112, second paragraph, Applicants have amended the claims to correct the informalities noted in the outstanding Office Action. Accordingly, Applicants respectfully submit that the rejection under 35 U.S.C. § 112, second paragraph has been overcome.

With regard to the rejection of Claims 12, 14-16, 18 and 23-28 under 35 U.S.C. § 103(a) as unpatentable over JP-2003-337930 in view of Vock; and Claim 13 under 35 U.S.C. § 103(a) as unpatentable over JP-2003-337930 in view of DiBenedetto, these rejections are respectfully traversed.

It is respectfully noted that the publication date of JP-2003-337930, November 28, 2003, is not more than one year prior to the filing date of the present application, October 7, 2004. Therefore, JP-2003-337930 is not prior art with respect to the present application under 35 U.S.C. § 102(b).

With regard to 35 U.S.C. §§102(a) and 102(e), the present application claims priority to French Patent Application No. 03 11883, filed October 10, 2003. In accordance with 37 C.F.R. §1.55(a)(4), enclosed please find an English translation of the certified copy of this application, along with a statement that the translation is accurate. It is respectfully submitted that the enclosed document perfects the claim to priority to French Patent Application No. 03 11883 under 35 U.S.C. §119. Further, it is respectfully submitted that the subject matter of pending Claims 12-28 are supported by the specification of this priority document. As the filing date of French Patent Application No. 03 11883 (October 10, 2003) antedates the publication date of November 28, 2003 of JP-2003-337930, it is respectfully submitted that JP-2003-337930 does not qualify as prior art with respect to the claims of the present application under 35 U.S.C. §102(a).

JP-2003-337930 is also not prior art under 35 U.S.C. §102(e), as JP-2003-337930 is not an application filed under the Patent Cooperation Treaty that was published in English.

See MPEP 706.02(f). Thus, JP-2003-337930 does not qualify as prior art with respect to the claims of the present application under 35 U.S.C. §102. Accordingly, JP-2003-337930 may not be used in a rejection of any of Claims 12-28. Therefore, all rejections of these claims based on JP-2003-337930 are traversed.

In response to the rejection of Claims 12-24 and 26-28 under 35 U.S.C. § 103(a) as unpatentable over DiBenedetto in view of Vock, Applicants respectfully submit that independent Claim 12, recites novel features clearly not taught or rendered obvious by the applied references.

Independent Claim 12 is directed to a stride monitoring device including, *inter alia*:

> ...a first shoe including at least a magnetic mass;
>
> ***a second shoe including at least one magnetometer configured to measure a magnetic field produced by the magnetic mass in the first shoe and to output magnetic field signals based on the measured magnetic field produced by the magnetic mass in the first shoe, wherein said magnetic field signals can be processed to determine stride parameters***, and
>
> said second shoe further includes at least one accelerometer configured to measure an acceleration and to output acceleration signals based on the measured acceleration, and the accelerometer is further configured to output acceleration signals that enable determining instants of impact of said second shoe, and wherein the instants of impact are taken into account for calibrating in time a dynamic measurement of a distance between shoes.

As discussed during the interview, DiBenedetto describes an automatic, self-adjusting system that modifies a performance characteristic of an article of footwear.[1] However, DiBenedetto fails to teach or suggest "a second shoe including ***at least one magnetometer configured to measure a magnetic field produced by the magnetic mass in the first shoe*** and to output magnetic field signals based on the measured magnetic field produced by the

[1] See DiBenedetto at column 1, lines 5-9.

magnetic mass in the first shoe, wherein said magnetic field signals can be processed to determine stride parameters," as recited in Applicants' Claim 12.

Figure 2A of DiBenedetto shows a sole of a shoe which has a control system 120 which includes a sensor 122, a magnet 123 and electrical circuitry. The sensor 122 is located below an adjustable element 124 and the magnet 123 is vertically spaced from the sensor 122. The sensor 122 and magnet 123 are located in a spot that corresponds generally to where maximum compression occurs in the rearfoot portion 108 of the shoe.[2]

A system 106 senses that the shoe has made contact with the ground. As the shoe engages the ground, the sole 104 compresses and the sensor 122 senses a change in the magnetic field of the magnet 123. The system 106 determines that the shoe is in contact with the ground when the system 106 senses a change in the magnetic field equal to about 2mm in compression.[3] Thus, in DiBenedetto, the system 106 determines the compression in a particular shoe based on the change in magnetic field given off by the magnet 123, which is sensed by the sensor 122. However, in DiBenedetto the sensor 122 detects the magnetic field of the magnet 123 located ***within the same shoe*** for determining compression of the shoe. In contrast, in Claim 12, ***a second shoe*** including at least one magnetometer is ***configured to measure a magnetic field produced by the magnetic mass in the first shoe*** and to output magnetic field signals based on the measured magnetic field produced by the magnetic mass in the first shoe, wherein said magnetic field signals can be ***processed to determine stride parameters***.

Thus, Applicants respectfully submit that independent Claim 12 (and all claims depending thereon) patentably distinguishes over DiBenedetto. Further, Vock fails to cure any of the above-noted deficiencies of DiBenedetto.

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[2] See DiBenedetto at column 6, lines 14-18.
[3] See DiBenedetto at column 12, lines 42-56.

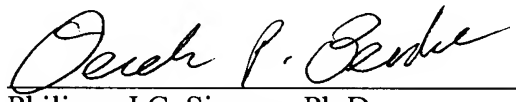
Accordingly, the rejection of Claims 12-24 and 26-28 under 35 U.S.C. § 103(a) as unpatentable over DiBenedetto in view of Vock

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 12-28 is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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